



**IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.**

**Dated: August 03, 2016.**

A handwritten signature in black ink, appearing to read "H. Mott".

**H. CHRISTOPHER MOTT  
UNITED STATES BANKRUPTCY JUDGE**

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

IN RE:	§	
	§	CASE NO. 16-30920-HCM
ANNE MARIE LIBERTY	§	(Chapter 7)
	§	
Debtor.	§	

**ORDER REGARDING EMERGENCY MOTION TO STAY EVICTION CASE**

On August 2, 2016 at 6:10 p.m., counsel for Anne Marie Liberty ("Debtor") filed an Emergency Motion to Stay Eviction Case ("Motion") (dkt# 9) with this Court. In short, the Motion seeks to stay an eviction action styled *El Paso Place Apartments d/b/a Van Horne Estates Apartments v. Anne Liberty*, cause no. 216-00456-FED ("Eviction Case") pending in the Justice of the Peace Court of El Paso County, Texas, Precinct no. 2 ("JP Court"). The Motion states that a trial is set for August 4, 2016 at 9:00 a.m. in the Eviction Case, and attaches a docket sheet from the Eviction Case. The Motion was not served by the Debtor on El Paso Place Apartments d/b/a Van Horne Estates Apartments ("Landlord"). Given the timing of events, there is no time to set and conduct a hearing on the Motion with notice prior to the date and time of trial in the Eviction Case.

The Court has reviewed the Motion and the record in this bankruptcy case. On June 16, 2016, the Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code with this Court, which constitutes an order for relief. In her Bankruptcy Schedules, the Debtor listed a residential lease of real property ("Lease") with the Landlord (dkt# 1). On June 17, 2016, Ronald E. Ingalls was appointed as the chapter 7 trustee ("Trustee") in the Debtor's case (dkt# 3). On August 1, 2016, a creditor's meeting was held in the Debtor's case with the Trustee. On August 2, 2016, the Trustee submitted a "no asset"

report to the Court, stating that there were no assets to be distributed to creditors in this bankruptcy case.

Section 365(d)(1) of the Bankruptcy Code provides that “in a case under chapter 7 of this title, if the trustee does not assume or reject...an unexpired lease of residential real property...of the debtor...within 60 days after the order for relief..., then such lease is deemed rejected.” Here, the order for relief in this bankruptcy case was on June 16, 2016, so 60 days after the order for relief will be August 16, 2016. It is obvious that the Trustee will not assume the Lease, given the no-asset report filed by the Trustee. As a result, on August 16, 2016, the Lease will be deemed rejected by operation of law. Since the Debtor’s case is a Chapter 7 liquidation bankruptcy case, the Debtor has no right to assume the Lease under section 365 of the Bankruptcy Code.

For these reasons, the Court finds that the following Order should be entered with regard to the Motion.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:**

1. The Motion is granted to the extent set forth below.
2. The eviction action styled *El Paso Place Apartments d/b/a Van Horne Estates Apartments v. Anne Liberty*, cause no. 216-00456-FED (“Eviction Case”) pending in the Justice of the Peace Court of El Paso County, Texas, Precinct no. 2 (“JP Court”) is hereby stayed and shall not proceed against the Debtor until on or after August 16, 2016.
3. On and after August 16, 2016, the Eviction Case may proceed against the Debtor under applicable state law. To the extent the automatic stay of section 362(a) of the Bankruptcy Code applies to the Eviction Case, the automatic stay is lifted effective as of August 16, 2016.
4. Nothing contained in this Order shall permit the Landlord (in the Eviction Case or otherwise) to obtain a monetary judgment against the Debtor for any debts that arose prior to June 16, 2016 as a personal liability of the Debtor. Any such debts owed by the Debtor as a personal liability are subject to discharge in this bankruptcy case under section 524(a) of the Bankruptcy Code.
5. Counsel for the Debtor shall cause this Order to be immediately served upon the Justice of the Peace Court of El Paso County, Texas, Precinct no. 2, and upon either counsel for the Landlord or the Landlord.

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